

## LISTING OF THE CLAIMS

1-59. (Canceled)

60. (Withdrawn from consideration) A process for producing infectious AAV vector preparations, with an AAV vector and a helper virus being introduced into a cell, the AAV vector being replicated and an infectious AAV vector preparation being obtained from the cell and/or the culture supernatant, wherein the AAV vector and the helper virus are introduced into the cell by infection.

61. (Currently amended) A ~~replication-defective~~ recombinant herpesvirus (rHV) comprising adeno-associated virus (AAV) *rep* and *cap* genes each operatively linked to a promoter comprised within an expression ~~vector~~ cassette integrated into a non-essential region of the rHV genome, wherein no visible reversion to the corresponding herpes virus sequence lacking the AAV rep and cap gene sequences ~~wild-type HV~~ under replication conditions is observed as determined subsequent to at least 3, 5 or 7 dilution steps by a plaque assay.

62. (Currently amended) The rHV of claim 61 wherein titers obtained under culture conditions are ~~up to~~ equal to or greater than 20% of titer of said corresponding ~~wild-type~~ herpes virus as determined by cell release virus titer.

63. (Currently amended) The rHV of claim 61 wherein the expression ~~vector~~ cassette optionally lacks all or part of AAV inverted repeat sequences (ITRs).

64. (Previously presented) The rHV of claim 61 wherein the non-essential region of the rHV genome is U<sub>S</sub> or U<sub>L</sub>.

65. (currently amended) The rHV of claim 61 wherein the rHV lacks non-essential gene UL9 gene.

66. (previously presented) The rHV of claim 61 further comprising a reporter gene in the expression vector.

67. (currently amended) The rHV of claim 61 which is selected from the group of Herpesviridae consisting of herpes simplex virus (HSV), cytomegalovirus (CMV), pseudorabies virus (PRV), and Epstein-Barr virus (EBV) and other herpesvirus family members ~~of the herpesvirus family~~.

68. (currently amended) The ~~HV~~ rHV of claim 61 identified as a herpes simplex virus (HSV).

69. (canceled) The rHSV of claim 61 which is a recombinant derivative of HSV-1 strain 1802 having ECACC accession number V97111302 ~~wherein the expression vector is inserted into a unique *Xba*I restriction site in HSV-1 strain 1802~~.

70. (Currently amended) A process for preparing the recombinant herpes virus (rHV) of claim 61 comprising the steps:

preparing a vector that includes an adeno-associated virus (AAV) *rep* and an AAV *cap* gene each operably linked to ~~an expression control sequence; a promoter; and~~  
inserting integrating said vector into a non-essential region of the genome of a herpes virus (HV) to obtain rHV; and

replicating the rHV in a host cell without reversion to the corresponding HV sequence lacking AAV *rep* and *cap* gene sequences under replication conditions as determined subsequent to at least 3,5,or 7 dilution steps by a plaque assay  
~~wherein the vector is integrated into the genome of the HV without reversion to wild-type HV under replication conditions as determined by a plaque assay.~~

71. (previously presented) The process of claim 70, wherein the *rep* and *cap* genes are integrated into the HV genome by restriction cleavage/ligation or by homologous recombination.

72. (Previously presented) A composition comprising the recombinant herpes virus of claim 61 and a suitable medium to maintain viability of the virus.

73. (Previously presented) The process of claim 70 wherein the rHV further comprises a selected heterologous gene of interest operably linked to a promoter comprised within the expression vector.

74. (Previously presented) The process of claim 73 wherein the heterologous gene of interest encodes a therapeutically active polypeptide.

75. (Currently amended) The process of claim ~~73~~ 70 wherein the host cell is a mammalian cell.

76. (Previously presented) The process of claim 75 wherein the mammalian cell is selected from the group consisting of HeLa, BHK21 and Vero cells.

77. (currently amended) A viral composition which comprises the rHV of claim ~~61~~ 80.

78. (Previously presented) A host cell transformed with the rHV of claim 61.

79. (Previously presented) The host cell of claim 78 wherein the host cell is selected from the group consisting of HeLa, BHK21 and Vero cells.

80. (new) The rHSV of claim 61 which is identified as having ECACC accession number V97111302.

81. (new) The rHSV of claim 80 which is prepared from HSV-1 strain 1802 by insertion of an expression cassette consisting of AAV *rep* and *cap* genes each operatively linked to a promoter into an XbaI unique restriction site of said strain 1802.